

EXTRA.



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AMENDMENTS

TO

THE SUPREME COURT RULES, 1880.

Copy of a Report of a Committee of the Honourable the Executive Council, approved by His Honour the Lieutenant-Governor on the 11th day of October, 1881.

The Committee of Council advise that "The Supreme Court Rules, 1880," be amended as follows, by virtue of the provisions of Section 17 of the "Judicature Act, 1879," and of Section 33 of the "Local Administration of Justice Act, 1881," that is to say:—

ORDER XXXVI.

TRIAL.

Rule 248 is hereby amended by omitting the words "of Victoria" in the last line thereof, and substituting therefor the words "or town wherein the action was commenced."

248A.

Rule 261 is hereby amended by omitting the words "in Victoria" in the first and eighth lines thereof.

261A.

Rule 262 is hereby repealed and the following substituted therefor:—

262A.

Notice of trial by jury shall be deemed to be for the first day of the then next Assizes at the place for which notice of trial is given.

Rule 269 is hereby amended by omitting the words "Save as provided in Section 7 of the Act."

269A.

ORDER XXXIX.

MOTION FOR NEW TRIAL.

Rule 284 is hereby repealed and the following substituted therefor:—

284A.

Any application for a New Trial shall be made to a Judge of the Judicial District within which the cause has been tried, and an appeal shall lie, as hereinafter provided, from any order made, upon such application, to the Full Court.

285A. Rule 285 is hereby amended by omitting the words "if the trial has taken place in Victoria," and by further omitting all the words after the word "time" in the seventh line.

287A. In Rule 287, the word "Full" shall be omitted.

ORDER XL.

MOTION FOR JUDGMENT.

292A. In Rule 292 the words "Full Court" shall be omitted and the following words substituted therefor:—"Court of the District wherein the action has been commenced."

ORDER LIV.

379A. Rule 379 is hereby repealed.

ORDER LVIII.

399A. Rule 399 is hereby amended by omitting the words "and every appeal from a County Court or Mining Court."

Rule 400 is hereby repealed and the following substituted therefor:—

400A. A Full Court shall consist of not less than three Judges of the Supreme Court sitting together. An appeal shall lie to such Court

(a.) From every final Judgment only of a single Judge sitting in the Supreme Court, or in any County Court, in cases where the matter in dispute exceeds the sum of \$400, or relates to any sum of money due to or claimed by or on behalf of Her Majesty, or to any title to lands and tenements or such like matters or things where the rights in future might be bound, although the immediate value or sum in appeal is less than \$400;

Whenever the jurisdiction of the Full Court is dependent in cases of appeal, upon the amount in dispute, such amount shall be understood to be that demanded and not that recovered, if they be different;

(b.) From every Judgment, Rule, or Order made by a Judge sitting as aforesaid, or by any County Court in any cause, suit or matter involving the question of the validity of any Act of the Parliament of Canada, or of the Legislature of this or any other Province of Canada, although the value or amount involved in the appeal is less than \$400.

(c.) Upon any order of a Judge aforesaid relating to the issue of a Writ of Mandamus or upon any question arising upon the return of such Writ;

(d.) Upon any order of a Judge aforesaid relating to the quashing in whole or in part of any Municipal By-law;

(e.) Upon any order of a Judge aforesaid made upon any case stated by an Arbitrator, or upon any motion to set aside or refer back an award where the matter in dispute exceeds the sum of \$400;

(f.) Upon any order of a Judge aforesaid granting or refusing a New Trial where the matter in dispute exceeds the sum of \$400.

The Court shall also have jurisdiction

(g.) To hear and determine Special Cases when all parties agree to have the same heard by the Full Court.

Rule 401 is hereby repealed and the following substituted therefor:—

401A. Sittings of the Full Court shall be held in Victoria for the year 1881 on Monday, the 19th day of December.

402A. Rule 402 is amended by omitting the word "ruling" in the 4th and 5th lines.

Rule 404 is hereby repealed and the following substituted therefor:—

Notice of Appeal from any Judgment or Order shall be a fourteen days' notice.

404A.

Rule 405 is hereby amended by omitting the words in the 3rd and 4th lines, "except in appeals from a County Court or Mining Court," and by further omitting the words "upon interlocutory applications or" in the 8th line.

405A.

Rule 407 is hereby repealed and the following substituted therefor:—

Subject to any Special Order which may be made, notice by a Respondent under the last preceding Rule shall be an eight days' notice.

407A.

Rule 412 is hereby repealed and the following substituted therefor:—

No appeal shall, except by special leave of the Full Court, be brought after the expiration of four months, which period shall be calculated from the time at which the judgment or order is signed, entered, or otherwise perfected, or, in the case of the refusal of an application, from the date of such refusal. Such deposit or other security for the costs to be occasioned by any appeal shall be made or given as may be directed by the Full Court, or by the Judge whose decision is appealed from; and Appeals from County Courts shall be governed by the Rules in that behalf provided.

412A.

The words "final judgment" in these Rules shall mean any judgment, rule, order, or decision whereby the action, suit, cause, matter, or other judicial proceeding is finally determined and concluded; and the said words shall also be deemed to include any rule, order, or decision which shall have the effect of finally determining any cause, matter, or judicial proceeding, although such rule, order, or decision may not, according to the rules of practice in force for the time being, be a final judgment.

412B.

ORDER LX.

Rule 417 is hereby repealed and the following substituted therefor:—

There shall be a vacation in the Supreme Court from the 10th day of August to the 30th day of September, both inclusive, during which vacation no pleading shall be delivered or cause tried except by consent. Christmas day and the two following days, Good Friday and the following days up to and including Easter Tuesday and any Statutory holidays, shall also be observed as vacations. All other vacations shall be abolished.

417A.

Service of summonses, notices, pleadings, orders, or other proceedings upon any Solicitor shall be made before one o'clock, p.m., on Saturdays, and before five o'clock, p.m., on other days. If made after the above hours respectively the service shall be deemed to have been made on the next day which is not a holiday.

417B.

The above Rules may be cited by their marginal numbers as forming part of "The Supreme Court Rules, 1880," or may be cited as the "Amended Supreme Court Rules, 1881," and shall come into force and take effect on and after their publication in the *British Columbia Gazette*, but nothing herein contained shall be construed so as to prejudice or invalidate any proceedings taken under "The Supreme Court Rules, 1880," prior to such publication.

417C.

Certified,

T. B. HUMPHREYS,

Provincial Secretary and Clerk Executive Council.

